



INDIANA OFFICE OF
Community & Rural Affairs

PRE-CONSTRUCTION CONFERENCE GUIDE

For HUD Program Participants

Grant Support Division
One North Capitol, Suite 600
Indianapolis, Indiana 46204

317-232-8333

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PREVAILING WAGES IN CONSTRUCTION CONTRACTS
29 CFR PARTS 1, 3, 5, 6 AND 7

The Davis-Bacon and Related Acts apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration or repair of public buildings or public works.

The Act requires that all contractors and subcontractors performing work on the contract pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits, as determined by the Secretary of Labor, for corresponding classes of laborers and mechanics who work on the project.

Contractors and subcontractors are required, pursuant to the Contract Work Hours and Safety Standards Act, to pay employees one and one-half times their basic rates of pay for all hours over 40 worked in a workweek. Fringe benefits are required at straight time for all hours worked on the federally funded project.

Contractors or subcontractors found to have disregarded their obligations to employees, or to have committed aggravated or willful violations while performing work on Davis-Bacon covered projects, may be subject to contract termination and debarment from future contracts for up to three years. In addition, contract payments may be withheld in sufficient amounts to satisfy liabilities for unpaid wages and liquidated damages that result from violations.

Falsification of certified payroll records or the required kickback of wages may subject a contractor or subcontractor to civil or criminal prosecution, the penalty for which may be fines and/or imprisonment.

A copy of the federal wage decision applicable to this project and the “Federal Labor Standards Provisions” (Exhibit A) must be physically attached to the contract that the grantee signs with the contractor. Furthermore, these two documents must be physically attached to all subcontracts entered into for this project.

Contractors and subcontractors are required to pay employees weekly and to submit weekly certified payroll reports to the contracting agency. (See Exhibit B for Payroll Form and Instructions.)

It is the “Prime” or “General” Contractor’s responsibility to understand and assume the responsibility of communicating all requirements to all subcontractors employed on this project, including second and third tier subcontractors, independent subcontractors, self-employed owners, and all other entities.

The “Prime” or “General” Contractor understands that the grantee shall withhold funds from his payments if he *or any of his subcontractors* fail to comply with all applicable requirements on this federal project until compliance with such requirements is attained.

A Contractor’s Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects titled, “Making Davis-Bacon Work” may be obtained online at www.hud.gov/offices/olr.

Forms required to be provided to OCRA through the Recipient’s Grant Administrator *prior* to any work on the project include:

- Performance Bond
- Payment Bond
- Contractor’s Certification (Exhibit C) or Subcontractor’s Certification (Exhibit D)
- Wage/Fringe Benefit Certification (Exhibit E)
- Verification of bonafide fringe benefit packages

CIVIL RIGHTS

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. Additional information may be obtained at www.usdoj.gov/crt/cor/coord/titlevi.htm.

Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972 prohibits discrimination in hiring, promotion, and other employment practices on the basis of race, color, religion, sex, or national origin. See www.eeoc.gov/policy/vii.html.

Executive Order 11246 and its implementing regulations cover contractors and subcontractors who hold any federally assisted construction contract in excess of \$10,000.

The Executive Order and the regulations require covered contractors and subcontractors to refrain from discrimination and take affirmative steps to ensure that applicants and employees receive equal employment opportunity regardless of race, color, religion, sex, and/or national origin in such employment practices as recruitment, rates of pay, hours, upgrading, layoff, promotion, selection for training, advertising efforts, job classifications, seniority, retirement ages, or job fringe benefits such as employer contributions to company pension or insurance plans.

Sexual harassment is a violation of the nondiscrimination provisions of the Executive Order.

More detailed compliance assistance information, including copies of explanatory brochures and regulatory and interpretative materials, may be obtained from the Office of Federal Contract Compliance Programs (OFCCP) Web site at www.dol.gov/esa/ofccp or by contacting OFCCP's Toll-Free Help Desk at 1-800-397-6251.

All contractors and subcontractors awarded a federal contract or subcontract in excess of \$50,000, and having more than 50 employees, must submit an annual EEO-1 report by September 30 using employment numbers from any pay period in July through September of that year. Instructions on how to file and applicable report forms are available on the Equal Employment Opportunity Commission's website at www.eeoc.gov/eo1survey/howtofile.html.

Section 3 is a provision of the Housing and Urban Development (HUD) Act that requires recipients of certain HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low or very low income residents in connection with projects and activities in their neighborhoods. Additional information, qualifying income and contractors' responsibilities may be found at www.hud.gov/offices/fleo/section3/section3brochure.cfm.

Recipients of CDBG funds will be required to track their project work force performance, and project area business utilization for contractors and subcontractors relative to the hiring and training of low and moderate income persons and the use of local businesses. The CDBG project service area for Section 3 compliance will be the nonmetropolitan county. If a recipient receives \$200,000 of assistance for housing and community development assistance and assistance for rehab or new construction or other public construction, Section 3 compliance applies to the whole project.

NOTE: Any contractor or subcontractor receiving a contract of \$100,000 or more on a CDBG covered project is required to apply Section 3 to the greatest extent feasible and provide a completed "Section 3 Report" (Exhibit F) to the Grantee when their work on the contract is complete.

Section 109 of the Housing and Community Development Act of 1974 prohibits discrimination on the basis of race, color, national origin, disability, age, religion and sex within Community Development Block Grant programs or activities. For additional information go to <http://www.hud.gov/progdesc/sec-109.cfm>.

Americans with Disabilities Act, Title III prohibits discrimination based on “disability” by private entities and places of public accommodation; requires that all new places of public accommodation and commercial facilities be designed and constructed so as to be readily accessible to and usable by persons with disabilities; and requires that examinations or courses related to licensing or certification for professional trade purposes be accessible to persons with disabilities.

Architectural Barriers Act of 1968 requires access to facilities designed, built, altered, or leased with Federal funds. Additional information may be obtained at www.access-board.gov/about/laws/ABA.htm.

NOTE: OCRA requires a recipient of CDBG funds to certify the project meets the minimum requirements of the Act for accessibility, and the facility is usable. Regardless of the type of CDBG project undertaken by a recipient, they will be required to complete the “Certification of Accessibility” (Exhibit G) and submit a copy to OCRA’s Civil Rights Officer prior to the start of project construction.

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance. Details are available on the EEO website at www.dol.gov/dol/toopic/discrimination/agedisc.htm.

The Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contracts. There are four key sections of the Act:

- Section 501 requires affirmative action and nondiscrimination in employment by Federal agencies of the executive branch.
- Section 503 requires affirmative action and prohibits employment discrimination by Federal government contractors and subcontractors with contracts of more than \$10,000.
- Section 504 states that no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under any program or activity that either receives Federal financial assistance or is conducted by any Executive agency.
- Section 508 requires Federal electronic and information technology to be accessible to people with disabilities, including employees and members of the public.

Other laws enforced by the U. S. Equal Employment Opportunity Commission (EEOC) may be found at www.eeoc.gov/policy/laws.html.

Other Requirements direct the “Prime” or “General” contractor to display the Labor Standards and Civil Rights posters on the job site in a location accessible to all employees, regardless of the type of construction project. The Fair Housing posters must be displayed on the project site only if the project is a housing project.

The information contained within this document is a brief overview of the Civil Rights Regulations pertinent to CDBG funded projects. Recipients of federal grant funds including all professional service providers and/or construction contractors are responsible for adhering to the federal regulations, whether or not they are stated in this document.

This is to certify that the undersigned acknowledge and accept the federal and state regulations as they pertain to projects partially funded with Community Development Block Grant funds:

The General Contractor, hereinafter referred to as the “Contractor” has previously been awarded the following contract(s) or subcontract(s) for work on a federally funded project:

Project	Location
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Is the Contractor familiar with the requirements associated with federally funded projects?

Yes or No

Does the Contractor understand and accept responsibility of communicating all requirements to all subcontractors employed on this project, including second and third tier subcontractors, independent subcontractors, self-employed owners and all other entities?

Yes or No

Does the Contractor understand that the grantee shall withhold funds from the general contractor if *it or any of its subcontractors* fail to comply with all applicable requirements on this federal project until such requirements are met?

Yes or No

Does the Contractor understand that a copy of the federal wage decision applicable to this project and the Federal Labor Standards Provisions (Exhibit A) must be physically attached to the contract that the grantee signs with the contractor and that these two documents must be physically attached to all subcontracts entered into for this project?

Yes or No

List below the names of all known subcontractors on this project and the type of work to be performed:

Subcontractor	Type of Work
<hr/>	<hr/>
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Are there any questions relative to the federal regulations to be utilized on this project?

Yes or No

Continued

The Undersigned do hereby acknowledge

That on _____
(Date)

at a Pre-Construction Conference pertaining to the

_____,
(Project)

an overview was given of requirements and regulations for
construction projects funded in whole or in part with
Community Development Block Grant Funds.

This is to certify that I understand and accept the rules,

procedures and requirements regarding a

construction contract between

_____ and
(Grantee)

_____.
(Contractor)

Signed: _____
Contractor's Representative

Dated: _____

Signed: _____
Grantee's Representative

Dated: _____

Signed: _____
Grant Administrator

Dated: _____

NOTE: A copy of pages 5 and 6 of the Preconstruction Conference Packet must be provided to OCRA
when complete. The original document should be maintained in the Grant Administration file.